

REMARKS

Claims 1-12 are pending in the application. Claims 1-12 are rejected under 35 U.S.C. §102(e). Applicants respectfully traverse these rejections for at least the reasons stated below and respectfully request that the Examiner reconsider and withdraw all outstanding rejections.

I. REJECTIONS UNDER 35 U.S.C. § 102(e):

The Office Action has rejected claims 1-12 under 35 U.S.C. §102(e) as being anticipated by Trachewsky et al. (U.S. Publication No. 2001/0055311) (hereinafter "Trachewsky"). Applicants respectfully traverse these rejections for at least the reasons stated below and respectfully request that the Examiner reconsider and withdraw these rejections.

For a claim to be anticipated under 35 U.S.C. §102, each and every claim limitation must be found within the cited prior art reference and arranged as required by the claim. M.P.E.P. § 2131.

Applicants respectfully assert that Trachewsky does not disclose "transmitting a first transmit signal from the host media access controller program to the media access controller (MAC) to transmit a data packet" as recited in claim 1 and similarly in claims 6 and 9. The Examiner cites Figure 30 and paragraphs 160-161 of Trachewsky as disclosing the above-cited claim limitation. Paper No. 3, page 2. Applicants respectfully traverse and assert that Trachewsky instead discloses that to transmit, a station waits (defers) for a quiet period on the channel (that is, no other station is transmitting) and then sends the intended message modulated as per the PHY characteristics. Trachewsky further discloses that the transmission deferral is ordered by up to eight priority levels, implementing absolute priority among stations contending for access. Trachewsky further discloses that if, after initiating a transmission, the message collides with that of another station, then each transmitting station ceases transmission and resolves the collision by choosing a Backoff Level and defers to other stations that have chosen a lower Backoff Level. There is no language in the cited passage of transmitting a transmit signal from the host media

access controller program. The cited passage instead discloses that a station waits for a quiet period on the channel and then sends the intended message modulated as per the PHY characteristics. Further, there is no language in the cited passage that discloses transmitting a transmit signal from the host media access controller program to the media access controller to transmit a data packet. Thus, Trachewsky does not disclose all of the limitations of claims 1, 6 and 9, and thus Trachewsky does not anticipate claims 1, 6 and 9. M.P.E.P. §2131.

Applicants further assert that Trachewsky does not disclose "asserting a transmit start signal from the MAC" as recited in claim 1 and similarly in claims 6 and 9. The Examiner cites Figure 30 and paragraphs 160-161 of Trachewsky as disclosing the above-cited claim limitation. Paper No. 3, page 3. Applicants respectfully traverse. As stated above, Trachewsky instead discloses that a station waits for a quiet period on the channel and then sends the intended message modulated as per the PHY characteristics. There is no language in the cited passage that discloses asserting a transmit start signal. Neither is there any language in the cited passage that discloses asserting a transmit start signal from the MAC. Thus, Trachewsky does not disclose all of the limitations of claims 1, 6 and 9, and thus Trachewsky does not anticipate claims 1, 6 and 9. M.P.E.P. §2131.

Applicants further assert that Trachewsky does not disclose "receiving a carrier sense signal on the MAC indicating activity on a transmission medium" as recited in claim 1 and similarly in claims 6 and 9. The Examiner cites Figure 30 and paragraphs 160-161 of Trachewsky as disclosing the above-cited claim limitation. Paper No. 3, page 3. Applicants respectfully traverse and assert that Trachewsky instead discloses that carrier sense 1100 detects the starting and ending times of a valid frame transmission on the wire. While Trachewsky uses the phrase "carrier sense", there is no language of receiving a carrier sense signal indicating activity on a transmission medium. Neither is there any language in the cited passage that discloses receiving a carrier sense signal on the MAC indicating activity on a transmission medium. The Examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that carrier sense 1100 of Trachewsky, which detects the starting and ending times of a valid frame

transmission on the wire, discloses receiving a carrier sense signal on the MAC indicating activity on a transmission medium. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, the Examiner must provide extrinsic evidence that must make clear that carrier sense 1100 of Trachewsky, which detects the starting and ending times of a valid frame transmission on the wire, discloses receiving a carrier sense signal on the MAC indicating activity on a transmission medium, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Since the Examiner has not provided such evidence, the Examiner is merely relying upon his own subjective opinion which is insufficient to establish a *prima facie* case of anticipation. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002); M.P.E.P. §2131. Thus, Trachewsky does not disclose all of the limitations of claims 1, 6 and 9, and thus Trachewsky does not anticipate claims 1, 6 and 9. M.P.E.P. §2131.

Applicants further assert that Trachewsky does not disclose "delaying assertion of a final transmit signal when both the transmit start signal and the carrier sense signal are active, thereby avoiding packet collisions" as recited in claim 1 and similarly in claims 6 and 9. The Examiner cites Figure 30 and paragraphs 160-161 of Trachewsky as disclosing the above-cited claim limitation. Paper No. 3, page 3. Applicants respectfully traverse. As stated above, Trachewsky instead discloses that a station waits for a quiet period on the channel and then sends the intended message modulated as per the PHY characteristics. There is no language in the cited passage that discloses delaying assertion of a final transmit signal. Neither is there any language in the cited passage that discloses delaying assertion of a final transmit signal when both the transmit start signal and the carrier sense signal are active. Neither is there any language in the cited passage that discloses that packet collisions are avoided by delaying assertion of a final transmit signal when both the transmit start signal and the carrier sense signal are active. Thus, Trachewsky does not disclose all of the limitations of claims 1, 6 and 9, and thus Trachewsky does not anticipate claims 1, 6 and 9. M.P.E.P. §2131.

Applicants further assert that Trachewsky does not disclose "verifying on the host media access controller program that the MAC has deferred the transmit start

signal by (i) evaluating the carrier sense and the transmit start signal, and (ii) determining that the final transmit signal has not been not asserted if both the carrier sense and the transmit start signal are active, thereby avoiding packet collisions" as recited in claim 9. The Examiner cites Figure 30 and paragraphs 160-161 of Trachewsky as disclosing the above-cited claim limitation. Paper No. 3, page 5. Applicants respectfully traverse. As stated above, Trachewsky instead discloses that a station waits for a quiet period on the channel and then sends the intended message modulated as per the PHY characteristics. There is no language in the cited passage that discloses evaluating the carrier sense and a transmit start signal. Neither is there any language in the cited passage that discloses determining that the final transmit signal has not been not asserted if both the carrier sense and the transmit start signal are active. Neither is there any language in the cited passage that discloses avoiding packet collisions by determining that the final transmit signal has not been not asserted if both the carrier sense and the transmit start signal are active. Thus, Trachewsky does not disclose all of the limitations of claim 9, and thus Trachewsky does not anticipate claim 9. M.P.E.P. §2131.

Claims 2-5, 7-8 and 10-12 each recite combination of features including the above combinations, and thus are not anticipated for at least the above-stated reasons. Claims 2-5, 7-8 and 10-12 recite additional features which, in combination with the features of the claims upon which they depend, are not anticipated by Trachewsky.

For example, Trachewsky does not disclose "verifying on the host media access controller program that the MAC has deferred the transmit start signal by (i) forwarding the carrier sense signal to the host media access controller program, (ii) evaluating the carrier sense and the transmit start signal, and (iii) determining that the final transmit signal has not been not asserted if both the carrier sense and the transmit start signal are active" as recited in claim 2 and similarly in claim 7. The Examiner cites Figure 30 and paragraphs 160-161 of Trachewsky as disclosing the above-cited claim limitation. Paper No. 3, page 3. Applicants respectfully traverse. As stated above, Trachewsky instead discloses that a station waits for a quiet period on the channel and then sends the intended message modulated as per the PHY characteristics. There is no language in the cited passage that discloses forwarding a

carrier sense signal to the host media access controller program. Neither is there any language in the cited passage that discloses evaluating the carrier sense and a transmit start signal. Neither is there any language in the cited passage that discloses determining that the final transmit signal has not been not asserted if both the carrier sense and the transmit start signal are active. Thus, Trachewsky does not disclose all of the limitations of claims 2 and 7, and thus Trachewsky does not anticipate claims 2 and 7. M.P.E.P. §2131.

Applicants further assert that Trachewsky does not disclose "asserting the final transmit signal when the transmit start signal is active and the carrier sense signal is inactive" as recited in claim 3 and similarly in claims 8 and 10. The Examiner cites Figure 30 and paragraphs 160-161 of Trachewsky as disclosing the above-cited claim limitation. Paper No. 3, page 4. Applicants respectfully traverse. As stated above, Trachewsky instead discloses that a station waits for a quiet period on the channel and then sends the intended message modulated as per the PHY characteristics. There is no language in the cited passage that discloses asserting the final transmit signal. Neither is there any language in the cited passage that discloses asserting the final transmit signal when the transmit start signal is active and the carrier sense signal is inactive. Thus, Trachewsky does not disclose all of the limitations of claims 3, 8 and 10, and thus Trachewsky does not anticipate claims 3, 8 and 10. M.P.E.P. §2131.

Applicants further assert that Trachewsky does not disclose "providing a physical layer between the MAC and the telephone wire and transmitting the carrier sense signal and the final transmit signal between the MAC and the physical layer" as recited in claim 5 and similarly in claim 12. The Examiner cites Figure 4A of Trachewsky as disclosing the above-cited claim limitation. Paper No. 3, page 4. Applicants respectfully traverse. Figure 4A of Trachewsky does illustrate a MAC and a PHY. However, Figure 4A of Trachewsky does not disclose transmitting the carrier sense signal and the final transmit signal between the MAC and the physical layer. Thus, Trachewsky does not disclose all of the limitations of claims 5 and 12, and thus Trachewsky does not anticipate claims 5 and 12. M.P.E.P. §2131.

As a result of the foregoing, Applicants respectfully assert that not each and every claim limitation was found within Trachewsky, and thus claims 1-12 are not anticipated by Trachewsky.

II. CONCLUSION

As a result of the foregoing, it is asserted by Applicants that claims 1-12 in the Application are in condition for allowance, and Applicants respectfully request an allowance of such claims. Applicants respectfully request that the Examiner call Applicants' attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining issues.

Respectfully submitted,

WINSTEAD SECHREST & MINICK P.C.

Attorneys for Applicants

By: 

Robert A. Voigt, Jr.

Reg. No. 47,159

Kelly K. Kordzik

Reg. No. 36,571

P.O. Box 50784
Dallas, Texas 75270-2199
(512)370-2832

Austin_1 271250v.1